

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

BENJAMIN JOHN RODDEN

PLAINTIFF

v.

3:18-cv-00239-BSM-JJV

GREENE COUNTY JAIL, Staff

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to Chief United States District Judge Brian S. Miller. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in a waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a new hearing for this purpose before either the District Judge or Magistrate Judge, you must, at the time you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence to be proffered at the new hearing (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The details of any testimony desired to be introduced at the new hearing in the form of an offer of proof, and a copy or the original of any documentary or other non-testimonial

evidence desired to be introduced at the new hearing.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing. Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Benjamin John Rodden ("Plaintiff") has filed a *pro se* Complaint, pursuant to 42 U.S.C. § 1983, alleging Defendants violated his constitutional rights. (Doc. No. 2.) On December 10, 2018, I denied his Application to Proceed Without Prepayment of Fees and Affidavit ("Application") as incomplete because his Calculation Sheet was blank.¹ (Doc. No. 3.) I then ordered Plaintiff to either: (1) pay the \$400 statutory and administrative fees in full; or (2) file a new Application and Calculation Sheet. (*Id.*) I gave Plaintiff thirty (30) days to comply with my instructions and cautioned him that the case would be dismissed, pursuant to Local Rule 5.5(c)(2), if he failed to timely do so. (*Id.*)

As of today, Plaintiff has not complied with my December 10, 2018, Order. The time to do so has expired.

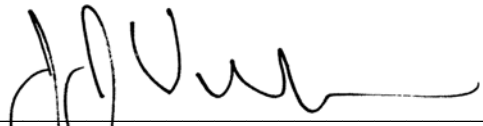
IT IS, THEREFORE, RECOMMENDED THAT:

1. The Complaint (Doc. No. 2) be DISMISSED without prejudice due to a lack of prosecution.
2. The Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis*

¹ A properly completed trust fund sheet contains information about funds a prisoner may have on account with the incarcerating facility. I must have that information to determine whether a prisoner is entitled to proceed *in forma pauperis*, and if so, the amount of the initial partial filing fee required by the Prison Litigation Reform Act. See 28 U.S.C. § 1915(b).

appeal from an Order adopting this recommendation and the accompanying Judgment would not be taken in good faith.

DATED this 14th day of January 2019.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE